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ADDRESS

OF

Companion Lt. Com'd'r JAMES PARKER,

FORMERLY U. S. NAVY,

BEFORE THE

BOARD OF OFFICERS OF THE

NEW YORK COMMANDERY

OF THE

MILITARY ORDER OF THE LOYAL LEGION OF THE U. S.

IN THE MATTER OF THE

Investigation of Charge and Specifications

AGAINST

COMPANION WILLIAM S. ANDREWS,

CAPTAIN U. S. VOLUNTEERS.

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Military Order of the Loyal Legion

OF THE UNITED STATES.

Matter of Charges against Companion Captain WILLIAM S.
ANDREWS.

U. S. Volunteers.

In the investigation made by the so-called "*Leawo Committee*" of the Legislature of New York, during the latter part of 1894, much testimony was given reflecting on the integrity of Captain WILLIAM S. ANDREWS, U. S. Volunteers, a Companion of the New York Commandery of the MILITARY ORDER OF THE LOYAL LEGION OF THE UNITED STATES.

At the December meeting, 1894, of the Commandery, Companion Andrews called attention to this testimony; and asked that the Board of Officers should be instructed to investigate the charges that had been thus made against him, and he pledged himself to withdraw at once from the Order, should the Board, after such investigation, deem him guilty.

At the February meeting of the Commandery, the Board reported that no investigation could be made because no charges had been preferred. Thereupon, Companion JAMES PARKER preferred a charge of conduct unbecoming a gentleman, and Companion, with Four Specifications.

The First Specification in substance was, that, being a Companion of the Order, and at the same time a Commissioner of Excise of the City of New York, he had corruptly and in consideration of a payment to him of \$500, voted to grant a license to a notorious place on Lafayette Avenue, New York, kept by one Louise Chaude, a house of bad character, known as "*Maison Tortoni*."

The Second Specification charged him with having falsely stated to the Board of Excise that Judge Andrew J. White had written a letter recommending the license of the "*Maison Tortoni*" to one Louis, a butcher.

The Third Specification charged him with having corruptly borrowed money during the time he was a Commissioner in charge of the Street Cleaning Bureau of the City of New York, from contractors under him, owing duty as such to the city.

The Fourth Specification charged him with having received from an old comrade a large sum of pension money, which he failed and refused to return ; and which he never repaid to the pensioner up to the time of his death, and still refuses to repay to his only child, the daughter of said pensioner, the amount being about \$2,500.

The Board carefully and patiently investigated these charges. Seventeen sessions were held. About 1,700 folios of testimony were taken. Nothing that Companion Andrews offered in his defense was refused.

After the testimony was all presented ; and he had summed up in a four or five hours' speech in his own behalf :—

COMPANION JAMES PARKER then addressed the Board as follows :

MR. COMMANDER AND COMPANIONS : I think we can all congratulate ourselves that this long investigation is about to come to an end. I think we can all congratulate ourselves, also, that no avenue, from which any portion of truth bearing upon these charges could emanate, has been closed ; but that every opportunity has been given to Companion Andrews to present anything which he thought calculated to maintain his side of the propositions. I have endeavored to be entirely fair to him. As I said at the outset, I have absolutely no feeling in regard to this matter. He was a stranger to me. I think I remember having seen him, somewhere, years ago, where I do not remember ; but I certainly never knew who he was until he stood up there before the Commandery, on the night of the 5th of December last, and, in a manly way, demanded that this Board should investigate these charges.

We all know what a feeling of horror crept over us as we read in the newspapers that one of our Companions (who seemed to have put himself in such a position as his own testimony before the Lexow Committee indicated he had once occupied) should have sat there in that chair, and told that terrible story which, if true, must forever bring disgrace upon him, a member of our honorable Order ; and we felt a sense of indignation—

a strong feeling of indignation—that he had put it in the power of Mr. Goff, or anybody else, to turn to him with a sneer, and ask “Is that the button of the Loyal Legion that you have there, sir?” And I felt a sense of pride in the Order to which we all belong, when he stood up in that manly way, and demanded that the Board should investigate, and say whether he had been guilty of those charges which had been made; and when he pledged himself to withdraw at once from the Order, if the Board should so consider, after such investigation.

I do not purpose to go over the whole of this testimony in detail. There are volumes of it lying there before you, which I think totally irrelevant to the issues; but the facts of the case, it seems to me, are plain enough.

The conclusions to be drawn from the testimony as given, are for you to draw; and it is for me only to call your attention to the proofs of those facts, and leave them clear before you.

Let us go back to the first thing that is brought before us. Go back to that time in 1872, when Companion Andrews was arrested, and sent to a prison in New York, for failure to pay over money that the Court had adjudged to be in his hands as its receiver and its officer. He says he was arrested for contempt of court; so he was; but the contempt of court consisted in refusing to pay over the money which the Court had adjudged, after solemn investigation, was in his hands as its officer. Can there be any denial of that fact? Let us read what he says himself, in his petitions and the affidavits, the originals of which I have produced here. See what *he* says; see what the order of the Court says about the matter; and then, when we have those papers, now twenty-three years old, standing there as sentinels to mark the facts of the case, we need not resort to the testimony of witnesses whose memory, as we all know, concerning events of that remote day must necessarily be weak.

First, we have the report of Winchester Britton, Referee, to the Supreme Court of the State of New York—“I do respectfully report, that said William S. Andrews, receiver, has during his said receivership, received as such receiver the sum of \$12,617.27, and has, during said period, disbursed as such receiver the sum of \$8,441.47, leaving due \$4,175.80. I do further allow to the said Andrews as a fair and just compensa-

tion for his services as such receiver, being for the period of thirty-eight weeks ending on the 28th day of January, 1872, the sum of \$50 per week, making in the aggregate the sum of \$1,900. I do further make and state the accounts as per statement hereto annexed, and made a part of my report; and I do find that there *remains in his hands* (the hands of Companion Andrews) *to be accounted for, the sum of \$2,275.80.*"

And then follows the account.

Then the Supreme Court takes up the story. On the 4th of April, 1872, an order was entered as follows: "On reading and filing the orders to show cause herein dated March 27th, 1872, and the papers on which the same was granted as mentioned therein, after hearing Mr. North as counsel for John H. Platt, assignee in bankruptcy, and reading the affidavits of Channeey Shaefer, Louis M. Doscher and John H. Bergen, and hearing Mr. Bergen, counsel for all the defendants who have appeared in this action and Mr. Killian for the plaintiff, and reading exceptions to the report of Winchester Britton and the testimony taken before him on the accounting before him, and hearing Mr. Truax, counsel for William S. Andrews, receiver; on motion of C. M. Bangs, attorney for John H. Platt, it is Ordered :

"That the report of Winchester Britton, Esq., dated March 5th, 1872, passing *the accounts of William S. Andrews as receiver in this action* be and the same *is confirmed.*"

That clinches the fact, makes it indubitable until that order is revoked—and it never has been revoked—that, at the time that order was entered, as shown by Mr. Britton's report, there was in Companion Andrews' *hands as receiver the sum of \$2,275.80.*

"*And it is further ordered,*" says the Court, "that the said William S. Andrews, the receiver heretofore appointed in this action, *do forthwith pay to* the said John H. Platt, as assignee as aforesaid, *the sum of \$2,275.80,* the amount which by the said report is found to be remaining in his hands as receiver, and also forthwith deliver to the said assignee all the property, goods and chattels, choses in action, evidences of debt, etc."

What is meant by that? What is the use of bringing lawyers and witnesses here to exercise their uncertain memory as to facts which are so unquestionably set forth as they are in those papers.

Now, the only question that remains is, has that amount, those funds decreed to be due and to be paid, *been paid*? Companion Andrews says it has. Mr. North, who was the counsel for the assignee in bankruptcy against him, who was to receive the money, says that it has not. Now, has it been paid? Companion Andrews, as detailed to you by Mr. North, was given a reasonable time within which to pay. Having failed to do it, the orders of arrest for contempt were issued against him in August, 1872, and given to the Sheriff—to *the* Sheriff, did I say—to *three* Sheriffs of three counties, who, as Mr. North testifies, exercised their ingenuity and skill in trying to find Companion Andrews, and did not succeed in getting him until the 4th of April, 1873.

Here is the petition of Mr. Andrews from jail, dated April 16, 1873.

He represents that on the 4th day of April he was “committed to the common jail of New York County, in Ludlow street, in the City of New York, where he ever since has been and now is confined.” That he was so confined by an order of one of the justices of said Court sitting in Kings County, at a Special Term thereof, held on the 10th day of May, 1872 (eleven months previously) “by which Court your petitioner was adjudged to be guilty of contempt of said Court, in his capacity as receiver, for having *refused*, after proper demand thereto, *to pay* to John H. Platt a certain amount in conformity to an order to that effect, dated on the 4th day of April, 1872.” You have all this before you. Then there was an endeavor on his part to show that he ought not to be called upon to pay this money. The story, as stated by Mr. Andrews, is that he had paid to his counsel money by orders of the Court, that the referee had not given him credit for. Why were not such orders filed? Those of you who are here, who are lawyers, and those of you who are not lawyers, as men of common sense, know that when moneys are paid by Orders of Court, those orders stand until revoked; and no Referee would have thought of denying a credit for an amount of money paid under an Order of Court. Why, *he* was the officer of the Court, to enforce its will, this Referee was. It was his duty to say whether this receiver had any receipts or vouchers in payments of the money that had come into his hands; to see if he had paid it out properly; and to tell us here that Orders of

Court, authorizing him (Andrews) to pay moneys to his counsel, would have been set aside by any Referee, and no attention paid to them, is absurd.

I am rather surprised that Companion Andrews, being a lawyer himself, should suggest such a thought. But he does not suggest anything of that kind *in this petition* from the jail. Oh! no!

Mr. Killian's affidavit was produced here yesterday. It is here in evidence. I believe a portion of it was read. At any rate, I called attention to the fact that the reason why that first report of the referee was set aside, and re-opened and never filed, or confirmed by the Court, was that it was a sort of snap judgment; and those other interested parties came into court, and complained that they had not been heard. When they were heard, what was the result? It has been shown to you here.

He goes on in his petition, and, after reciting this former report of the referee, he says: "That he was requested by said referee to return to him said report, which your petitioner did, and your petitioner afterwards learned that the said referee did afterwards on the 15th day of March, 1872, submit a report in which he found that there remained in your petitioner's hands to be accounted for the sum of \$2,275.80."

It then goes on, "And the further fact that while the report made on said 30th of January allowed your petitioner as compensation for his services as such receiver from the date of his appointment down to the 29th day of January the sum of \$3,400, the report confirmed on the 5th of March allowed your petitioner as such compensation from the date of his appointment down to the 27th day of January only the sum of \$1,900." Making a difference of some fifteen hundred dollars.

It then goes on to recite the other proceedings that had been had. He then speaks about a notice of appeal from so much of the order, etc., and then says: "And your petitioner further represents that he has not wilfully failed to comply with any order of court in the premises; that having honestly expended the sum allowed by said referee on the 30th of January, 1872, as above stated, he had not afterwards, nor has he now the means or ability to comply with said order of April 4th, 1872; that he is dependent upon his own exertions for the support of himself and family, and he has made no attempt

“to avoid the service of any process issued by this Court.” He further represents that “since he gave notice of his appeal as above stated, from said order of April 4th, 1872, he has been advised that he has no reasonable ground for expecting the reversal of that order; and he therefore *disclaims all intention of further prosecuting said appeal.*”

And then he goes on: “And your petitioner further represents that he has a family entirely dependent upon his personal exertions for support. That for sometime past he has been engaged in the business of a public lecturer, etc., and has reasonable grounds for believing that if released from imprisonment, so that he can carry on his business, he will be enabled to pay the money which he had been heretofore ordered to pay. That on the other hand, if he is kept confined, he will remain permanently unable so to do.”

Then the testimony of Mr. North comes in, and he says that upon this petition being presented, setting forth that if he was kept in jail they would never get their money, he thought that the best way to get the money was to let him out, and they did so.

Let us come down to the final order. He was released upon that petition,—*upon his promise to pay that money*,—and then, a long time having elapsed, and he not having paid it, a second order to show cause was granted against him, after hearing all the parties again. These were the conditions upon which he was released finally by the Court:

“And it is further ordered that the said Andrews on the *1st day of January, 1874*, pay to the said Platt, assignee as aforesaid, the full sum of \$1,250, or on failure thereof show cause to this Court at a special term thereof, to be held at the Court house in the City of Brooklyn, on the first Monday of January, 1874, why he should not be committed as for contempt.”

“And it is further ordered that the said Andrews on the *27th day of February, 1874*, pay to the said Platt, assignee as aforesaid, the further sum of \$1,300, or on failure thereof, show cause to this Court, etc., why he should not be committed as for contempt.”

Now, a further order to show cause why he should not again be arrested was granted on the 6th day of April, 1874—another yea

Capt. Andrews: From February to April is not a year.

Capt. Parker: You were to pay on the first of January, 1874, that order was entered at a Special Term on the 7th of May, 1873, and then you were ordered to pay on the first of January, 1874, \$1,250, or show cause, etc., and on the 27th of February, 1874, to pay the further sum of \$1,300, or show cause in March why you should not be committed.

On the 6th of April, 1874, a further order was made upon an affidavit of Platt setting forth that Andrews had *not paid*, and that he had failed to perform and carry out certain terms and conditions of the order of May 7th, 1873, in that said Andrews had failed to pay to “the said Platt the sum of \$1,250 and the sum of \$1,300, which sums were required to be paid, and that no part of said sums had been paid except the sum of \$150 paid by the said Andrews, and the further sum of \$600 paid by Richard W. Bleecker and Dion Thomas, two of the sureties of the said Andrews, it is *Ordered*: that he show cause on Monday the 4th day of May, 1874, why the order by which he was committed should not be enforced against him.”

Upon the coming in of that order to show cause, such proceedings were had, that Companion Andrews was released, *not from the obligation to pay the money*, but from imprisonment, &c., and in his affidavit upon which that release was made, he makes this statement, to which I call your attention. “Deponent therefore prays this Honorable Court that he be relieved from further attendance upon said order, and from further stress herein, *except that he shall pay to said Platt, at such times and in such amounts as he may be enabled to pay, so much of the amount due from him as receiver herein, as may remain or be uncollected from said sureties* (\$600 had been collected from them). *Deponent pledges himself to make the utmost exertion to pay the amount due from him, as receiver herein, to said Platt without unnecessary delay, and to incur no extraragant or unnecessary expenses until said amount is paid.*”

And upon that petition, and their being no opposition to it: “It is now deemed by the Court that the said William S. Andrews in failing to comply with the order herein entered

“ May 11th, 1872, was *not guilty of any intentional contempt of the court*, and that the said William S. Andrews is hereby discharged from the further *operation of this order* (not from obligation to pay the money), *so far as his personal liberty from arrest is concerned.*”

There that matter ended. So far as any evidence goes, not one penny of that money has ever been paid by Companion Andrews, and there I leave that proposition.

This matter has been brought into this case because Companion Andrews himself suggested it. It occurred long before his admission to this Order, and I did not think in framing these charges, any reference should be made to it; but, inasmuch as *he* has referred to it, and courted investigation of it, and inasmuch as it bears upon his general reputation and character as a man, it is but fair that this prominence should be given to it.

Such was the man who became a Commissioner of Excise of this city some years ago. The date is of no particular consequence. And that brings me now to the consideration of the

FIRST SPECIFICATION OF THE CHARGE.

What are the facts about that?

Is there any doubt that Madam Claude was the proprietress of that place “Maison Tortoni,” and was licensed as such in 1886 for one year? None whatever. The license papers are here. Is there any doubt that, when her license expired in 1887, a renewal was refused upon the ground of the notoriously bad character of the house? Is there any doubt whatever of the notoriously bad character of the house? Why, Companion Andrews has himself characterized it, right here, this evening, even as an “*assignation house*,” a “*bawdy house*,” and has endeavored to show and convince you and prevail upon you to believe that Mrs. Tomlinson came and got that “*assignation house*” and that “*bawdy house*,” which, as he now claims, *she knew* to be of such character, licensed, because Madame Claude had paid to her, or to her husband, five hundred dollars, upon the pretence of purchasing some stock in that Electric Company. There is no doubt about the character of that house. The characterization of the house on that refusal of the license to Lamberts, of itself shows that the house was a bad house, a notoriously bad house, and that Companion Andrews well knew that that was the character of the

house. We have it all in evidence here, and you will find there the report made upon that place by Captain Williams, who was an Inspector at the time. We have, in the refusal of the Lamberts license, Companion Andrews' *own statement, over his own signature*, as to the character of the house.

Here is a house, the license to which has been twice refused on account of its notoriously bad character and the notoriously bad character of the proprietress thereof, Companion Andrews on both occasions voting for such refusal, and himself, over his own signature, stigmatizing the house as I have already stated.

Now, what happened? Read the testimony before the Lexow Committee, offered in evidence here, and you will find his own statement of the case was, that one Louis came to him and represented, *not* that he was the proprietor of that establishment, but had been *the butcher who furnished the meat to it*; that a large bill was owing to him, and that he could not collect it, unless he could have this house licensed in his own name. Companion Andrews was examined pretty savagely about that, and about his motives for acting in that way, by Mr. Goff. It was a very startling statement for him to make, to admit that a man could come to him, a Commissioner of Excise, and say that he had been furnishing meats to a "*house of assignation*," a "*barb'dy house*," that he had twice refused a license to, on those very grounds, that a man could come to him under such circumstances, and say that was the reason why he wanted that house licensed in *his* name. The evidence is all there, and there is not any question about it. It is Companion Andrews' own statement under oath.

Why this change of heart towards that place? When men so suddenly shift round—when a public officer who has been faithful in the discharge of his duty up to a certain point, is suddenly found willing to do the very things which, up to that moment, he would not do, because of the thoroughly bad character of the house, we naturally look for some motive. Why this change of heart? How did it come about? His own testimony—the testimony he introduced—has relieved me from the necessity of corroborating Mrs. Tomlinson's statement that Mrs. Chande paid to her, five hundred dollars. His own witness, Lamberts, Madame Chande's bookkeeper, states that fact.

What Lamberts said as to what Mrs. Chaude had said to him about Mr. Tomlinson is not evidence. I do not believe you gentlemen will regard it for a moment, and I do not believe you will regard anything that that man (Lamberts) says in this matter touching the character or standing of Mr. Tomlinson and Mrs. Tomlinson, in regard to that notorious house or their visits to it. I do not believe you will consider it for an instant when you consider the further fact that this man Lamberts came up before the Excise Board—and there is his own statement in evidence—and swore that *he* (and *not* Madame Chaude), was the proprietor of that place, and asked for a license for it on that ground.

Major Odell: I do not think he swore in that application that he was the proprietor.

Capt. Parker: Let it speak for itself. I do not wish to make any misrepresentation, but the paper speaks for itself. That man did make that application, and it does appear from Companion Andrews' own evidence that he appeared to be the book-keeper and not the proprietor of that place.

Col. Suydam: Does not the application require the applicant to state who is interested in the property, and does he not say he is the only one?

Capt. Parker: He states who the owner of the fee is; but he states also that he is the proprietor of that place.

Col. Suydam: I do not think the word proprietor is used.

Capt. Andrews: Interested in the business.

Col. Suydam: He says he is the only one.

Capt. Andrews: Interested in the business to be carried on; that is, the business of selling liquor.

Capt. Parker: The paper speaks for itself. I have only mentioned that fact as showing the character of this man Lamberts. He was Madame Chaude's agent to do her bidding, whatever that bidding was. He is the man who swears he has been for years getting Louis, the butcher, to make false statements, as to the ownership of that house, and himself paying the license fees for it out of the moneys of Madame Chaude; all the time Louis was pretending to be the owner of that place; that Louis never paid a dollar; that he always paid it from Madame Chaude's moneys, and for her.

Mrs. Tomlinson had that money in her pocket for some purpose. You have seen her here. Every effort was made by Companion Andrews to break her down. Her motherly feelings were outraged. The weaknesses that her children had displayed were brought before you. They had nothing whatever to do with the case before you. They were brought out here for some purpose; and I must confess that it is about the only thing in this whole investigation that inspired me with a sense of indignation against Companion Andrews. Is it not bad enough that this poor woman's heart should have been torn by the conduct of her children? Why should it be thrown up to her, and directed at her for no good purpose? I do not think the cause of the defence was helped in the slightest degree by that effort. And who did not feel his heart warm up towards that little woman, as she turned here one day, in indignation at the manner in which she was being questioned, rather than the matter? I felt that she was going to exercise the woman's privilege of scratching the face of the man she thought had insulted her, and I was standing ready and willing to go between them, and, if necessary, take the scratching myself.

Companion Andrews has tried to make it appear in his address that Mrs. Tomlinson was a party to an attempt to bribe him. Where is there any evidence of that? Cannot a woman's feelings be worked upon by somebody who comes to her and asks her to influence her husband to have justice done to her, and tells her that it would cost five hundred dollars to get a license? What did Mrs. Tomlinson know about license fees? She took the money and endeavored to exercise what influence she had, and the terms were that if the license was not procured, the money should be returned. In order to see that that money went safely into the hands of the party who was to receive it (somebody, as she supposed, at the Excise Board), she went there with her husband; and Companion Andrews admits here that there is no doubt whatever in his mind that she stopped in front of that door, and saw her husband go into the room, wherein Companion Andrews was, she knowing he had the five hundred dollars in his pocket, and that when her husband came out again he told her precisely what she says he did.

I say the circumstances of the case are overwhelming in showing that her statement about the matter is true. She puts no stigma at all upon Companion Andrews. When that door closed upon Companion Andrews and her husband, then *she* does not pretend to say a word as to what occurred in that room except that she says that after consultation with him, with the five hundred dollars in his pocket, her husband came out and told her it was all right. And the event of a few days afterwards PROVED IT WAS ALL RIGHT.

Companion Andrews devoted a large part of yesterday afternoon to statements made about his relations to Jacob Reis. I think you are all satisfied that Reis has been his factotum to do his bidding for the last fifteen or twenty years. Does he want the creditors of the Star company kept off? Reis kept the bank account. Does he want a convenient affidavit made in relation to something old Toplany says about somebody or another? Reis is on hand to listen to the statement and make the affidavit.

That is the bearing of what we have put in about Reis. It is to show that he was the man all the way through, who was ready to do the bidding of Mr. Andrews, and to come up to the necessities of the occasion, whatever they were. And that he was such a man, I think Companion Andrews demonstrated to you yesterday, when he produced here a lot of blank checks upon Reis' bank account, signed by Reis, which Companion Andrews is authorized in his own discretion to fill out. He was his book-keeper in the iron concern. You will find Reis all the way through—Reis runs all the way through *this* whole matter, from the beginning to the end of it. If there is a transaction, which to any mortal man looks shady, Reis is in it. The evidence shows that clearly from the beginning to the end; and if the evidence had not shown it, I think the statement made by Companion Andrews yesterday, demonstrates it.

IS TOMLINSON TO BE BELIEVED? Why should the action of this board be revoked? Faithful Mr. Woodman is out of the way. He is sick. John Von Glahn and William S. Andrews rule the hour. Reis, in addition to his private relation to Companion Andrews, was one of the employés of this Board of Excise, one of its officers, and when they wanted a report as to the character of Louis, who was sent to make it? Louis

can talk English; he talked pretty plain English before the Lexow Committee. Lamberts can talk English; we had no difficulty in understanding him here. It was not necessary to send a man up there who understood French (as Andrews says Reis did) to find out whether Louis was really the proprietor of that place or not. Who was sent? This factotum, Jacob Reis, was the man who was appointed to go up there and come back and make the needed report.

Suppose the theory upon which the Tomlinsons' statements proceed to be the true one; what would be more natural than that this factotum, this man who had kept his bank account, and had been this convenient person through all these years, should be the man sent up there to make that investigation. Of course, in such event, what his report was to be, was pre-arranged; what more likely than that? I will not say, because I do not know, any further than the testimony has put it before us all; but I say that upon the theory that that story of the Tomlinsons is true, *Companion Andrews did the very thing you would naturally expect him to do under the circumstances.* He sent the man up there, upon whose fidelity to himself he could rely; and whose report would be in accordance with what was desired under the circumstances.

You have seen Mr. Tomlinson; you have heard all the evidence about him; you have heard his story; *he* says that he gave that five hundred dollars to Companion Andrews there that morning. When two men differ, when there are conflicting statements, you take their characters into consideration, and you take the probabilities of the case also into consideration; you take also the surrounding circumstances into consideration; you look in this case to see if the result which Mrs. Tomlinson and Mr. Tomlinson anticipated, has been brought to pass; and when you look at it from that standpoint, you see that the very thing that was promised *has come to pass.*

There has been a change of heart. The "*barfy house*" and the "*assination house*" have become clean. The butcher is installed as the clean new man; and we have here a decision of the Superior Court, made by Judge Gildersleeve, given to us by Companion Andrews to demonstrate that the Commissioners of Excise had no right whatever to refuse a license to a notori-

ous house of that sort, when the new applicant is a man of sound character.

Does anybody believe that it is possible that in one or two short months—one short month I think it was—from October to November, in one short month there could have been such a change of heart in the persons of these Excise Commissioners; and that with regard to a place so notorious as that place has been, so notoriously bad as they had declared it to be, and that such change could be honest? Must not there have been something else in the case?

I am not going to make any effort to bolster up Mr. Tomlinson. You have heard the evidence. There has been a great deal of outside talk about his life. The shams seem to have been ransacked for the purpose of trying to find out something about him, but in vain, I think. They find that Mrs. Tomlinson was the bookkeeper for a concern which *she* says was perfectly honest; and because some scoundrel went to the Post-office authorities, and made some charges against that concern, *she* is to be stigmatized as she has been. All *her* letters have been returned to her; the letters that were sent to her as bookkeeper of this fraudulent concern, as it is called, have not been. There is no proof that the place was fraudulent beyond the fact that somebody had gone and told the Postmaster that it was. I could have brought the President of that concern here, and have had him tell what the character of the charge was, and I could have shown by him that the charge was perfectly baseless; but I did not think it was worth while to impose upon you, and divert attention from the main issues here in any such way, and therefore I desisted. With those remarks I leave that first specification.

AS TO THE SECOND SPECIFICATION.

Now, is this specification proven? If you believe that the first one *is*, you must necessarily believe that this one has been. What is the evidence about Judge White's letter? The Judge was brought here to have him deny the evidence brought out before the Lexow Committee; but he did not. An effort was made to show that the letter was among the papers and had been subsequently abstracted; but we have the evidence of Mr. Moss,

and I think he was telling the exact truth, to the effect that when those papers were put in his hands, when he first went there (not at a subsequent time), there was no such letter as that of Judge White amongst them; no such letter there. Does anybody doubt that Mr. Moss is telling the truth about the matter? He says he saw all the papers. He tells you of the trouble they had in looking them up. He says he went there, reluctantly, to investigate about that matter because of his pleasant personal relations with Mr. Andrews, but the matter had been brought to the attention of Mr. Goff. He went there to see what was in it. All the papers were produced; they were put in his hands for the first time—these two witnesses swear that he examined them all carefully—and he says he did, and that there was no letter of Judge White's amongst them; and that if there had been any such letter of Judge White's amongst them, he would never have stood by (and neither would any other honorable man), and let the impression prevail that Mr. Andrews had sworn falsely; he would have come out as an honorable man and would have said—"I saw the letter of Judge White when I went up there"—either such a letter, or a letter purporting to be Judge White's.

I say the evidence shows conclusively that there was no such letter of Judge White's in those papers. And why should the letter of Judge White, if it was there, have been abstracted before the time that Mr. Moss went up there? Nobody had heard anything about this matter; nobody knew that this charge was to be made against Andrews. Nobody suspected what the Tomlinsons were to do. This lawyer went there as any other lawyer would go, any other honest man, a friend of Companion Andrews, a man with whom he had the most pleasant relations—went there simply to do his duty, to find out what papers were there; and can there be any doubt that when all those papers relating to those cases which he had gone there to examine were put in his hands he would have carefully looked over each paper to see what it was? He says there was no such letter of Judge White's amongst the papers; and I say, in the face of his statements, that the statements of the other witnesses (one of whom made a list of the papers and then conveniently lost it) are unworthy of belief.

We can see, if we look, some reason, I think, why these men wanted to produce such an impression as that. There is something which we call reform in the air in the city of New York, and every Tammany official is trembling in his shoes. Most of us think that the fears they are entertaining are righteous fears, and that they have good cause for trembling. There is an impression all round about, that there is rascality permeating every department of the city of New York from top to bottom; and a great many people think that the only way of reforming or curing this evil is to begin with a new set of brooms, and see if we cannot sweep clean. I can understand why these people should come here before you, and, for the purpose of shielding one of their number, should be willing to swear that they saw a paper with "Police Court" on the top of it, and a signature that looked like Judge White's: that they believe, after examining the honest signatures of Judge White, that were produced here, was the signature of Judge White on the letter they say was there. Nobody swears positively about it. It is all inference.

I say that, upon the evidence in the case, upon the theory that the first specification has been proved—if you believe the Tomlinson story—then you must necessarily believe the other story. It follows as the night follows the day.

AS TO THE THIRD SPECIFICATION.

That refers to the matter of borrowing money from contractors of the city. It is not necessary for me to occupy much time in regard to that. Companion Andrews admits the main facts. He testified before the Lexow Committee, and he has reasserted the fact here, that he *did borrow from Thomas J. Dunn*, who was a contractor for the city, as he believes (and if he believes it and then borrows from him, it does not make any difference whether he was a contractor or not; the underlying principle is the same). I do not care whether Dunn was a contractor or whether the other man was a contractor; if Andrews had reason to believe he was a contractor, and borrowed money from him, then the offence, whatever it is, is committed. The only thing that remains in doubt about that question, in the mind of Companion Andrews (but I do not think there is any doubt about it

in the minds of any of the members of the Board), is, was this man from whom he borrowed this second thousand dollars really a contractor for the city?

The evidence in the case shows that he owned five out of the seven stables used by the Street Cleaning Department. There were large amounts of repairs to be made on those stables from time to time, all to be recommended by the Commissioner of the Street Cleaning Department. The whole question of such repairs for the purpose of keeping them in the condition they were in depended upon *his* will. And while it is true that the contracts were not made by him personally, they *were made* for the use of his department, the Department of Street Cleaning, of which he was the head. And I do not care who made it, whether it was the Comptroller, or the Board of Audit, or the Mayor, or Companion Andrews, the Commissioner. There is not any doubt but that that man did own all those stables. The evidence is clear about it, and it is further clear that he was, in some way or other, a contractor in relation to the scows in the Lower Bay, under control of the Street Cleaning Department.

I do not think Companion Andrews is quite straight-forward in his testimony about those scows. He might just as well have admitted what is the plain fact, but he somehow seemed to avoid the efforts I made to induce him to say whether that was a contract; and Companion Hughes, in his questions, applied the touchstone to that sort of thing and showed what it was, because Companion Andrews admitted in reply to those questions that the payment for those scows was made through his department and it was necessary for him to know about the matter.

And, whether hired by a proposal or an agreement made through him or somebody else, why, it is a mere subterfuge to say that is not a contract. Every lawyer knows and every man of sense knows that a contract may either be verbal or may be in writing or otherwise, but it is a contract all the same, and all you have got to do is to prove it in some way or other. If the law says you have got to prove it in a certain way, then you must. If the law is silent, then you can prove it in any other way. You can produce the letter proposing it, you can produce the letter accepting it, and those two, taken together, would form what the law says is a contract. That is what constitutes a con-

tract. You may infer a contract, as you always do in suits for the breach of the contract of marriage, from the circumstances of the case. It may be an implied contract. There are numerous kinds of implied contracts. The books are full of them. The definition is perfectly clear. The question sometimes arises as to what constitutes an implied contract and what constitutes an actual contract, but there is never any doubt but that it is either an implied contract or an express contract. And any arrangement made by the City, or by the Street Cleaning Department, or by any department of the city of which Companion Andrews had any control whatever, with any individual, was a contract within the meaning of this specification; and the man who occupied that relation by virtue of that agreement, whatever it was, was a contractor.

It seems to me that is too clear for any further argument.

We now come to the fourth specification.

AS TO THE FOURTH SPECIFICATION.

What are the facts about that? This man Toplanyi and Captain Andrews had been comrades together in the war. They were bound to each other by the feeling of comradeship which we all entertain towards each other. This old man had gotten into bad habits. He was a man of fine education, of fine natural qualities, of good family in his native land, Hungary; one of those who sympathized and suffered with Kossuth, the leader of the Hungarian revolution. He belonged to that band of heroes who were brought here at the expense of this country by the American frigate, the *Mississippi*, which was sent to bring them from Turkey. When they arrived here Kossuth seemed to take our hearts by storm; he seemed to have the whole country in his grasp. They had run *Kossuth-mad*, by reason of his sufferings and services in the Hungarian revolt against Austria, and when Captain Ingraham demanded the return of that hero, Martin Kosta, from the hands of those Austrians (in which demand my friend Admiral Braine and I as two of Ingraham's young officers bore a part), why the whole world rang with approbation of his act. Toplanyi was one of those heroes. He came over here, and in the time of our national tribulation en-

listed in the army of the United States, and Companion Andrews and he were thus brought together.

This man, finally degraded by drink, brought down low in the scale, until he has become the poor miserable wretch that Companion Andrews himself describes him to be, goes up to the Soldiers' Home at Bath, N. Y., and while there, through the chaplain, makes an application for a pension. Time rolls by and he hears nothing of it. He leaves that place and comes down to New York, and either seeks, or in some manner falls into the hands of his old comrade in arms, Companion Andrews, who says: "I will do what I can. I am a man of character and "standing, and I think I can accomplish something for you," and he takes the matter in hand, and in time the result is what?

On the 17th day of August, 1883, Companion Andrews wrote a letter, in which, speaking of Toplanyi, Companion Andrews says to the deputy commissioner of pensions "that he was an "officer of extraordinary ability, who rendered valuable service "and who was liked and respected by his superiors and associates until he became *affected both in mind and body* by the "illness and exposure he contracted in the army." And then, at the close, he says: "I have, as I think you understand, acted "as attorney in this case *solely to serve an old comrade*. I not "only have *no promise of pay, but I shall not accept any*. "Whatever he receives *will be devoted wholly to his benefit*. I "have, therefore, the less hesitation in imposing upon your "kindness by asking your special attention to the case and "urging a speedy settlement.

"Very truly yours,

"WILLIAM S. ANDREWS."

On the 17th of August he writes that letter. On the 20th day of September, one month and three days afterward, \$3,297.50 of Toplanyi's pension money is put into his hands, or the drafts for it, on that application. What do we expect him to do? *To keep it for Toplanyi, of course, as he had promised, only a month before, he would do*. He had urged that as a reason why there should be prompt action in the matter. There *was* prompt action. And what did he do with the money? Let Companion Andrews himself answer that question. Here is his

sworn testimony, given before the City Court: "Q. You are "one of the defendants in this action? A. I am. Q. *You received the money, \$3250, from Alexander S. Toplanyi?* A. *I did.* Q. *About what time?* A. *On the 20th of September, 1885.* Q. *Of the \$3250 which you received, what became of it?* A. *I applied it to my own business. It happened at the time I received the money that I was engaged in the manufacturing business, and I had immediate use for money, and I paid it out within three or four days from the time I received it, the whole of it.* Q. *Paid it out for your own purposes?* A. *For my own purposes, exclusively."*

That is what he did with it. Instead of putting it in a safe place, in a bank, in some place where he could have it ready at hand when Toplanyi, his old comrade, needed it, as a month ago he said he was going to do; in fact he devotes it *at once and immediately* to his *own necessities in his own business*. I do not care what the motive was by which he took this money away from this old man; *he took it and devoted it to his own business*.

I am free to admit that, possibly at that time, he had the purpose in his heart—I hope he had—to keep it safe and let the old man have it when the time came—to keep it safe for his old comrade. I am willing to believe that that was his motive at the time he took that money. But the devil got into his heart, in my judgment, then and there; and when the necessities of his business had swallowed it up, and he could not pay it back, or, for some reason, became unwilling to pay it back; then he went to work to see what offset he could make; and then turned up all these little papers specifying amounts he claims he had advanced to Toplanyi during those two years, amounting to \$1772. Why, he says, he had given Toplanyi during those two years a dollar a day for his board and \$2.50 a week for his room, making \$9.50 a week. You can get pretty good board in the City of New York for that amount. But *that* only amounted in those *two years* to \$998. It was not \$1772. It was a little less than a thousand dollars and \$772 still remained. But worse than that remained.

Finding some necessity for giving himself a larger credit for sums advanced, upon some pretext or another, he makes a charge against this old man of \$250 for typewriters and other expenses

incurred in the prosecution of his claim, &c., for pension. I do not know what the typewriter's bill is going to be here. It may be \$250 here, but just look at the pile of testimony we have. *\$250 for typewriters in the prosecution of a claim for pension!* I do not know where the typewriting went to. There is no \$250 worth of typewriting among the Records in Washington.

Gentlemen, there is no question about these facts. *It is Companion Andrews' own statement of the case. That he got this money, that he took \$3,250 of it and put it into his business, and used it for his own purposes within two or three days from the time he received it, there is no question about.* He cannot deny it, for he has sworn to it over and over again; but he says the old man gave it to him—*made him a gift of it.*

Do you believe that story?

We have these damaging facts. Then followed, after that, demands, demands and demands on the part of the old man and of the creditors of the old man; suits at law, various efforts to make Companion Andrews disgorge this money he had received. He defeated them all in the way, as shown. He says here now that he rests his defence in the Toplanyi matter on the investigations that were made. There were four made by officers sent from the Pension office, and *every one of the four demonstrated* the fact, and reported that he had violated the law of the United States in taking this money. There was no diversity of opinion about it, between the Examiners, down to the very last man, Mr. Patterson. Finally the matter got into the hands of the officers of the law, for prosecution; and when they came to investigate the facts, they said they thought that, if the case was to be tried by the strict rules of the criminal law of the country, no conviction would follow. He says he rests his case upon those opinions of the law officers. He produces here letters from Pension Examiners at Washington, Law officers there, and the District Attorney here. They do not touch on the *merits of the case at all.* Read those opinions, the opinion even of Mr Patterson, who recommended that no prosecution should be had, though he found Companion Andrews had been guilty of violation of law. He said he could not be *convicted* because, he says the evidence shows (see Andrews' testimony) that Andrews had paid back all the money. It all rests upon the truth of Com-

panion Andrews' testimony ; but here, gentlemen, *you are to try that fact yourselves to-night*. Is this statement true ? Is it possible that he would have put into the hands of such a man as he describes that man Toplanyi to be, \$1,742 of money out of his own pocket in two years—advanced it to him—to say nothing of the \$250 he claims to have expended for typewriters ? A poor, miserable, drunken old fellow, whose mind had been impaired by his suffering under the flag, and in behalf of the Union in the days of the comradeship—the real comradeship—between these two men.

That is about all there is in the Toplanyi matter. Andrews has told the same story, substantially, right straight through. Old Toplanyi, if you read his evidence given on various occasions, you will find has lied, and he admits he had lied ; but he gives a reason for lying, viz., to shield Andrews in these various investigations. He went down to his grave, with his last sworn statement made before Commissioner Patterson, to the effect that Companion Andrews owed him then \$2,500, or thereabouts, of his pension money. With his last dying breath, so to speak, we have his denial of the statement that any such sum was paid back to him as Andrews had claimed ; and I say it is altogether improbable that Companion Andrews, or any other man in his senses, would have advanced to a poor, miserable, half-drunken vagabond as he says that man was—would have advanced to him the sum of \$1,772 in two years without any assurance that he would get it back. It is utterly incredible ; I cannot believe it.

MR. COMMANDER AND COMPANION :

Nothing has afforded me more sorrow than to be the unwitting instrument of this prosecution. I am free to say that if I had any idea to what extent it would have gone, the trouble it would have caused you and me, I would have allowed somebody else to draft the charge. But I did what I thought was a duty. I have done what I think has been my duty in presenting those facts to you as I have presented them, and as I see them ; and honestly see them. It is your duty to say whether these charges have been sustained. If this man, in your judgment, is innocent of all these things alleged against him, I say, in God's name *say so*. *It is your duty to say so*, in unequivocal terms ;

because, if companionship means anything, it means that we shall stand shoulder to shoulder and heart to heart under all circumstances, whether the winds blow foul or fair. I do not care *what* public opinion says about one of our number, if *we* think he has been wrongfully and dishonestly dealt with, *we should say so and stand by him.* But, on the other hand we must remember that the man who soils the button of the Loyal Legion is deserving of any punishment we can mete out to him. The only punishment you can mete out is to recommend to the Commandery, that he shall be turned out of the order.

I feel satisfied that you will do your duty in that respect as solemnly and as fearlessly as you will do it in the other respect if you are convinced that he has been wronged.

And, now, in the language of the old law I say, "Let the prisoner look upon the jury," and, as we go forth to-night, I am willing to pray for him, as the old law used to pray for the criminal before the bar :

"May God grant him a safe deliverance."

CHARGE AND SPECIFICATIONS OF CHARGE, PREFERRED
AGAINST WILLIAM S. ANDREWS, A COMPANION OF
THE NEW YORK COMMANDERY OF THE MILITARY
ORDER OF THE LOYAL LEGION OF THE UNITED
STATES, BY JAMES PARKER, ALSO A COMPANION OF
SAID COMMANDERY AND ORDER :

CHARGE.

(Sustained by the Board of Officers.)

Conduct unbecoming a gentleman, and a Companion of
the Military Order of the Loyal Legion of the United
States.

SPECIFICATION FIRST.

(This Specification sustained by the Board of Officers.)

In this, that the said William S. Andrews, on or about
the 16th day of September, 1887 (he being then and at all
times mentioned in this Specification), a Companion of the
Military Order of the Loyal Legion of the United States,
and also one of the Board of Commissioners of Excise of
the City of New York, duly appointed and sworn as such
(which Board was charged with the duty of licensing
hotels, restaurants, and saloons in said city), having, as one
of said Board, refused the application of one Louise
Chaude for a license for a certain house kept by her at No.
161 Lexington avenue, and known as "Maison Tortoni,"
because said "Maison Tortoni" was of well-known bad
character as a disorderly house, and said Louise Chaude
was known to be a woman of bad reputation, and was at
the time of said refusal under bonds upon the charge of
keeping said "Maison Tortoni" as a disorderly house ;
and having afterwards, to wit : on or about the 21st day of
October, 1887, as such Commissioner of Excise refused to
vote for the license of said "Maison Tortoni" in the name
of one Lambertz, because said Lambertz was known to said
Andrews, to be the book-keeper for said Louise Chaude ;
did afterwards, on or about the 21st day of December,
1887, corruptly, and because of a payment of Five Hundred
Dollars, made to him, said Andrews, by said Louise

Chaude, consent to, and urge and procure, the license by said Board of said "Maison Tortoni" in the name of one August L. Louis, a butcher then doing business as such at No. 265 Third avenue (upon a pretended bill of sale of the said "Maison Tortoni," purporting to be from said Louise Chaude to said August L. Louis), although he, said Andrews, well knew that said Louis was not the owner and keeper of said "Maison Tortoni," but that the same was still owned and kept and was intended to be kept thereafter by said Louise Chaude, and not by said A. L. Louis, and that said A. L. Louis had no interest therein whatsoever.

SPECIFICATION SECOND.

(Not Sustained by the Board of Officers.)

In this, that said William S. Andrews, on or about the twenty-first day of December, 1887, he being then a Companion of the New York Commandery of the Military Order of the Loyal Legion of the United States, and also one of the Board of Commissioners of Excise of the City of New York, charged with the duty of licensing hotels, restaurants and saloons in said City; and having twice previously refused a license to said "Maison Tortoni" as stated in the specification first above, in order to induce the other members of said Board to consent to grant a license to said August L. Louis as the owner and keeper of said "Maison Tortoni," which, he said, Andrews then well knew, still bore the character of a disorderly house, and was still kept by said Louise Chaude (whose license had been twice before refused as aforesaid), did endorse the application of said August L. Louis for license of said "Maison Tortoni" as follows:

"The applicant in this case is a respectable merchant, doing business at No. 265 Third avenue. He wishes to conduct this place (meaning said 'Maison Tortoni') as a boarding house and restaurant. He is personally vouched for by Judge Andrew J. White. There is no reason why this place (meaning 'Maison Tortoni') should not be licensed to a respectable person to do a respectable business, the former licensee having no connection with the

"place, as appears by the affidavit attached," and did sign his initials "W. S. A." to said endorsement.

WHEREAS, the said William S. Andrews, at the time of making said endorsement, well knew that said Judge Andrew J. White had not vouched for said applicant, August L. Louis, personally or in any other manner; and further well knew that the statement contained in said affidavit, viz., that the "former licensee," to wit, said Louise Chaude, whose applications for license of said "Maison Tortoni" had been by said Andrews already twice refused because of the bad character of the house, and of said Louise Chaude, "had no connection with the place," was false; and well knew that said Louise Chaude was still the proprietress of said "Maison Tortoni," and was then keeping and intending to continue keeping said "Maison Tortoni" in the same manner as she had always theretofore done; and well knew that the character of said "Maison Tortoni" and of its proprietress, Louise Chaude, had not changed, since he, said Andrews, had refused to license said "Maison Tortoni," because of the bad character of the said place, and of said Louise Chaude, its proprietor.

SPECIFICATION THIRD.

(Sustained by the Board of Officers.)

In this, that the said William S. Andrews on or about the day of _____, 1893, he then being a Companion of the New York Commandery in the Military Order of the Loyal Legion of the United States, and also a Street Commissioner of the City of New York, and charged as such Commissioner with the duty of enforcing the performance of contracts made by or on behalf of the Street Cleaning Department of the said City, did borrow from one Thomas J. Dunn, a contractor of the City of New York, the sum of \$1,000, and subsequently, for the purpose of paying off the said loan to said Thomas J. Dunn, did corruptly accept from one George W. Plunkitt, who was then a contractor with and owing duty to the Street Cleaning Department of the City of New York, and whose contracts it was the duty

of said William S. Andrews as Street Commissioner to require the fulfillment and performance of, the sum of \$1,000 upon pretense that it was a loan to be repaid, but without any agreement or understanding as to repayment of said money at any time, and which said sum had not been repaid at the time said William S. Andrews testified on the fourth of December, 1894, before the so-called Lexow Committee of the Legislature of the State of New York.

SPECIFICATION FOURTH.

(Sustained by the Board of Officers.)

In this, that the said William S. Andrews, on or about the 20th day of September A. D. 1835, he then being a Companion of the New York Commandery of the Military Order of the Loyal Legion of the United States, and having theretofore, as attorney for one Alexander S. Toplanyi, procured a pension for said Toplanyi, did procure, advise and persuade said pensioner to endorse and assign to him, said Andrews, a certain draft or drafts for arrears of pension due said pensioner, amounting to the sum of \$3,250 or thereabouts, drawn by the U. S. Pension Agent to the order of said pensioner, upon promise and pretence made by said Andrews to said pensioner that he, said Andrews, would safely keep the said amount for said pensioner, and repay the same to said pensioner or his order when said payment should be by said pensioner demanded, and did thereafter refuse to pay said moneys to said pensioner though payment was demanded, and did appropriate to his own use a large amount of said moneys, to wit, the sum of \$2,500 or thereabouts, and did not repay the same to said pensioner up to the time of his death, and has not paid the same to the legal representatives or heirs of said pensioner.

JAMES PARKER,
Companion N. Y. Commandery,
M. O. L. L. U. S.

Dated April 3, 1895.

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